

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

HB 7010 – SB 7005
FIRST EXTRAORDINARY SESSION
January 13, 2010

SUMMARY OF BILL: Authorizes the Commissioner of Education to move any public school or local education agency (LEA) into or out of a newly created "Achievement School District" (ASD) if the school is in the fifth year of improvement status or at any time a Title I school meets the U.S. Department of Education's definition of "persistently lowest achieving schools." Authorizes the Commissioner to contract with an individual, government entity, or nonprofit entity to manage the day-to-day operations of the ASD. The Administrator of the ASD may apply to the Commissioner for a waiver of any State Board of Education (Board) rule that hinders the ability of the school or LEA to meet adequate yearly progress (AYP) benchmarks.

Authorizes the administrator of the ASD to determine whether any teacher previously assigned to a school in the ASD will have the option of continuing to teach at that school. Any teacher not retained in the ASD will remain an employee of the LEA, subject to provisions in current law for dismissal. Eliminates current law restriction on use of specific teacher's effect on the educational progress of students in formal personnel evaluations. Schools or LEAs will remain in the ASD until achieving AYP for three consecutive years, at which time they will transition back to their pre-ASD status.

Creates a Teacher Evaluation Advisory Committee (TEAC) composed of 15 members, including the Commissioner of Education, the Executive Director of the State Board of Education, the Chairs of the Education Committees of the Senate and House of Representatives, and 11 other members appointed by the Governor. The TEAC shall develop and recommend to the Board guidelines and criteria for annual evaluation of all teachers and principals, including a grievance procedure. Effective no later than July 1, 2011, the Board shall adopt policies to implement the recommended guidelines and criteria. Annual evaluation of principals shall be based in part on student achievement data.

Authorizes LEAs to develop their own proposed salary schedules, subject to approval by the Commissioner. No salary schedule may reduce the salary of any teacher employed at the time the salary schedule is adopted.

Increases the maximum class size for career and technical education classes (CTE) from 25 to 35 students. Limits Basic Education Plan (BEP) funding of CTE classes to the amount provided for academic classes in grades 7-12. Increases the average class size for CTE classes from 20 to 30 students.

Grants any tenured teacher the right to a hearing before an impartial hearing officer selected by the local board of education prior to termination. Under current law, this right applies only to teachers in Shelby and Davidson counties.

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CORRECTION: On January 13, 2010, we issued a fiscal note for this bill. The summary section indicated that two-thirds of a principal's annual evaluation would be based student achievement data. This statement was in error and has been corrected. The fiscal impact is unchanged.

ESTIMATED FISCAL IMPACT:

**Increase Federal Expenditures – Exceeds \$121,250,000 FY 10-11
Exceeds \$121,250,000 FY 11-12
Exceeds \$121,250,000 FY 12-13
Exceeds \$121,250,000 FY 13-14**

**Increase State Revenue - Exceeds \$60,625,000 FY 10-11
Exceeds \$60,625,000 FY 11-12
Exceeds \$60,625,000 FY 12-13
Exceeds \$60,625,000 FY 13-14**

**Increase State Expenditures – Exceeds \$60,625,000 FY 10-11
Exceeds \$60,625,000 FY 11-12
Exceeds \$60,625,000 FY 12-13
Exceeds \$60,625,000 FY 13-14**

**Increase Local Revenue - Exceeds \$60,625,000 FY 10-11
Exceeds \$60,625,000 FY 11-12
Exceeds \$60,625,000 FY 12-13
Exceeds \$60,625,000 FY 13-14**

**Increase Local Expenditures – Exceeds \$60,725,000 FY 10-11*
Exceeds \$10,000,000/FY10-11/Permissive
Exceeds \$60,725,000 /FY 11-12*
Exceeds \$10,000,000/FY11-12/Permissive
Exceeds \$60,725,000 /FY 12-13*
Exceeds \$10,000,000/FY 12-13/Permissive
Exceeds \$60,725,000 /FY 13-14*
Exceeds \$10,000,000/FY 13-14/Permissive**

Other Fiscal Impact – Funds from recurring appropriation of state revenue will be shifted from existing programs of the Department of Education to fund programs and activities related to "Race to the Top" funding. According to the Department, the funds shifted from existing programs will not be replaced by additional state revenue. There will be no increase in state tax revenue appropriated to the Department as a result of this bill. The Department is unable to specify the amount of funds that will be shifted to "Race to the Top" programs and activities and is unable to identify the current programs that will be affected.

Assumptions:

- Enactment of this legislation will make the State of Tennessee eligible to apply for Phase I competitive grants under the federal "Race to the Top" program. The State is seeking funding in the amount of \$485 million spread over four years. Federal Department of Education guidance published on November 18, 2009, states that Tennessee is in Category 3, which, for planning purposes, estimates that Tennessee could receive \$150-250 million. This range is non-binding and states have been encouraged by the federal Department of Education to apply for grants in the full amount needed to fund all planned activities. Tennessee will apply for \$485 million in "Race to the Top" grants. According to the state Department of Education, Tennessee will be well positioned to receive the full amount that it is seeking. Race to the Top funds will be received beginning in September 2010 and will be received in equal increments over four fiscal years.
- If Tennessee receives less than \$485 million, programs and activities under this bill will be reduced so that state expenditures will not exceed the federal funds that are made available.
- If Tennessee receives \$485 million in Race to the Top grants, programs and activities will be undertaken at the state level, including but not limited to the following: common core standards and assessment rollouts and professional development; development and implementation of a new teacher and principal evaluation system including professional development; capacity-building professional development regarding use of new and existing data systems to improve instruction and student performance; and funding specific activities and interventions in the ASD and other schools that fail to meet AYP standards.
- Race to the Top funds will be distributed in the following manner: 50 percent will be retained by the state Department of Education to meet its one-time responsibilities under this bill, and 50 percent will be distributed to LEAs under the Title I formula. The State and LEAs will each receive \$60,625,000 in each of the four years.
- Expenditures under the BEP will not increase as a result of these changes.
- The ASD, including the contract for operation of the ASD, will be funded exclusively with Race to the Top funds. Control of any remaining schools or LEAs that have not met the AYP requirements once Race to the Top funds have been fully expended will revert to their regular LEA and will be funded through current sources of revenue, subject to performance requirements established in this bill.
- State and local BEP funding that would have been spent on schools moved to the ASD will be escrowed in a special BEP reserve account and held until control of the schools return to their regular LEA.
- Statewide, sixteen schools currently would be eligible for inclusion in the ASD on the basis of being in the fourth or fifth year of improvement status under No Child Left Behind. The number of Title I schools that may be eligible for inclusion in the ASD is not known. The total number of schools included will be subject to the limitations of Race to the Top funding.
- The TEAC will meet monthly. Its non-legislative members will incur travel expenses. Its legislative members will incur travel and per diem expenses. These costs will be paid


from Race to the Top funds and existing state appropriations to the state Department of Education. The TEAC will no longer meet once Race to the Top funds have been fully expended.

- Additional hearings conducted by impartial hearing officers will be conducted on proposed tenured teacher dismissals statewide. Local governments will be required to fund the cost of employing these officers. According to the state Department of Education, hearings will be relatively infrequent. The additional cost to local governments is estimated to exceed \$100,000 per year.
- No additional costs will be incurred from the expansion of average and maximum class size since these classes will be funded at the academic class level, rather than the higher level provided in current law. Some savings to state and local governments under the BEP may result but cannot reasonably be quantified in the absence of specific information about the number of classes that will be affected.
- Any increase in teacher salaries in the ASD, including but not limited to incentive pay, will be funded through Race to the Top funds. Once a teacher leaves the employ of the ASD, the teacher's salary will revert to the level provided in the regular LEA salary schedule.
- Some regular LEAs will propose a higher salary schedule for teachers. These higher salaries may be funded with the local share of Race to the Top funds to the extent that such funds are used for teacher pay that furthers the purposes of the Race to the Top program. For other teacher pay increases, local governments will be responsible for identifying a separate local funding source. Any increase in teacher pay proposed by a regular LEA is permissive. The state-wide local permissive impact of increased teacher pay in regular LEAs is estimated to exceed \$10,000,000 each year.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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